

REMARKS

Several figures of the present application are amended to include reference numbers missing on some of the originally-filed figures. No new matter is added to the present application by these drawing amendments. A marked-up copy of the drawing pages affected by this Amendment is enclosed in order to help identify the drawing changes made by this Amendment.

In the Restriction Requirement dated November 4, 2003, the Examiner identified ten species of the claimed invention. Also, the Examiner required the Applicant to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

In the December 4, 2004 Response to the Restriction Requirement, the Applicant elected Species III without traverse, and identified claims 39-63 and 76-87 as being readable upon Species III. However, in the February 18, 2004 Examiner's Interview, the Examiner requested that the Applicant provide support regarding the Applicant's association of claims 39-63 and 76-87 with Species III. The Examiner also noted that such support must be found in the present application as originally filed.

Species III identified by the Examiner in the November 4, 2003 Office Action corresponds to the embodiments of the originally-filed application illustrated in FIGS. 10A and 10B. As discussed in greater detail below, each of claims 39-41, 43-44, 46-49, 51-52, 54-63, and 76-87 read upon both of the free stall dividers illustrated in FIGS. 10A and 10B.

Claim 39:

FIGS. 10A and 10B each illustrate a free stall divider for dividing an open area into separate stall spaces for animals. On page 5 of the present application as originally filed, a description of a “free stall divider” is provided with reference to FIGS. 1 and 2. On page 11 of the present application as originally filed, FIGS. 10A and 10B are described as having the same primary parts as the free stall divider of FIG. 1, but employing different manners of coupling the dividing elements 18, 20 (see FIG. 1) to the mounting member 90 (see FIGS. 10A and 10B).

The present invention is in a relatively straightforward mechanical art. The Applicant therefore respectfully submits that one having ordinary skill in the art would clearly understand that the free stall dividers illustrated in FIGS. 10A and 10B are alternative embodiments of the free stall divider illustrated in FIGS. 1-8. One having ordinary skill in the art would also clearly understand that the present application fully discloses free stall dividers having any or all of the features and elements illustrated and described with reference to the embodiment of FIGS. 1-8, modified to the forms illustrated in FIGS. 10A and 10B. As described on page 15, lines 13-19,

... [I]t will be apparent that any of the bases, mounting members and dividing elements shown can be interchanged with any other bases, mounting members, or dividing elements shown to provide a variety of free stalls.

Accordingly, the structures illustrated in FIGS. 10A and 10B, like the structure illustrated in FIG. 1, are free stall dividers for dividing an open area into separate stall spaces for animals, and can have any of the features and elements disclosed with reference to the embodiment of FIGS. 1-8. Also, the Applicant therefore respectfully submits that claim 39 (as well as the other pending claims of the present application) meets all requirements of 35 U.S.C. §112, including the written description and enablement requirements of 35 U.S.C. §112, first paragraph.

FIGS. 10A and 10B also each illustrate a base 12. See also, page 11, lines 19-21. Further description of the base 12 and the orientation of cows with respect to the claimed structure is found on page 5, lines 23-27.

FIGS. 10A and 10B also each illustrate two dividing elements 18, 20 coupled to a base 12 by a mounting portion 86 and extending away from each other, away from the head space, and along stall spaces of two adjacent stalls. It should be noted that the term “coupled” must be construed to have its ordinary meaning, and should not be limited to a mechanical or physical coupling. *Johnson Worldwide Associates, Inc. v. Zebco Corp.*, 175 F.3d 985, 992, 50 USPQ2d 1607, 1612 (Fed. Cir. 1999). Barring a specific narrowing definition in the present application (and the Applicant respectfully submits that no such narrowing definition exists), the term “coupled” encompasses both direct and indirect couplings.

Claim 40:

As described on page 11, lines 26-29, the dividing elements 18, 20 can be removably coupled to the coupling element 88. (See also, page 7, lines 19-26, and reference on page 11, lines 11-12 to the FIG. 1 embodiment.) Also, the mounting member 90 can be removably coupled to the base 12 (see page 7, lines 1-2, and reference on page 11, lines 11-12 to the FIG. 1 embodiment). Accordingly, the dividing elements 18, 20 can be removably coupled to base 12.

Claim 41:

As described on page 11, lines 28-29, the dividing elements 18, 20 can be permanently coupled to the coupling element 88. See also, page 7, lines 19-26, and reference on page 11, lines 11-12 to the FIG. 1 embodiment). Also, the mounting member 90 can be permanently coupled to the base 12 (see page 7, lines 1-2, and reference on page 11, lines 11-12 to the FIG. 1 embodiment). Accordingly, the dividing elements 18, 20 can be permanently coupled to the base 12.

Claim 43:

With reference to page 11, lines 14-16 and FIGS. 10A and 10B, the dividing elements 18, 20 can each have a first end 42 substantially centered above the base 12, a second end 44 coupled to the base 12, and a joining portion 48 joining the first end 42 to the second end 44. As discussed above, the term “coupled” must be construed to have its ordinary meaning, and should not be limited to a mechanical or physical coupling. *Johnson Worldwide Associates, Inc. v. Zebco Corp.*, 175 F.3d 985, 992, 50 USPQ2d 1607, 1612 (Fed. Cir. 1999). Barring a specific narrowing definition in the present application (and the Applicant respectfully submits that no such narrowing definition exists), the term “coupled” encompasses both direct and indirect couplings.

Claim 44:

As shown in FIGS. 10A and 10B, the joining portion 48 of each dividing element comprises a substantially horizontal section (the horizontal section of each dividing element 18, 20 farthest away from the center of the assembly in FIGS. 10A and 10B) and an arcuate section (the arcuate section of each dividing element 18, 20 at the ends of the assembly in FIGS. 10A and 10B). As also shown in FIGS. 10A and 10B, the substantially horizontal section extends vertically above and horizontally beyond an end of the base 12, and the arcuate section joins the substantially horizontal section to the second end 44.

Claim 46:

As shown in FIGS. 10A and 10B, the dividing elements 18, 20 form a substantially symmetrical structure on opposite sides of the base 12.

Claim 47:

FIGS. 10A and 10B both illustrate a free stall divider for dividing an open area into separate stall spaces for animals. On page 5 of the present application as originally filed, a description of a “free stall divider” is provided with reference to FIGS. 1 and 2. On page 11 of the present application as originally filed, FIGS. 10A and 10B are described as having the same primary parts as the free stall divider of FIG. 1, but employing different manners of coupling the dividing elements 18, 20 (see FIG. 1) to the mounting member 90 (see FIGS. 10A and 10B). Accordingly, the structures illustrated in FIGS. 10A and 10B, like the structure illustrated in FIG. 1, are free stall dividers for dividing an open area into separate stall spaces for animals.

FIGS. 10A and 10B also each illustrate a substantially horizontally extending base 12. See also, page 11, lines 19-21. Further description of the base 12 and the orientation of cows with respect to the claimed structure is found on page 5, lines 23-27.

FIGS. 10A and 10B also each illustrate two dividing elements 18, 20 coupled to a base 12 and extending away from the base and alongside the stall spaces of two stalls in facing relationship with one another. It should be noted that the term “coupled” must be construed to have its ordinary meaning, and should not be limited to a mechanical or physical coupling. *Johnson Worldwide Associates, Inc. v. Zebco Corp.*, 175 F.3d 985, 992, 50 USPQ2d 1607, 1612 (Fed. Cir. 1999). Barring a specific narrowing definition in the present application (and the Applicant respectfully submits that no such narrowing definition exists), the term “coupled” encompasses both direct and indirect couplings.

Claim 48:

As described on page 11, lines 26-29, the dividing elements 18, 20 can be removably coupled to the coupling element 88 shown in FIGS. 10A and 10B. See also, page 7, lines 19-26, and reference on page 11, lines 11-12 to the FIG. 1 embodiment). Also, the mounting member 90 can be removably coupled to the base 12 shown in FIGS. 10A and 10B (see page 7, lines 1-2, and reference on page 11, lines 11-12 to the FIG. 1 embodiment). Accordingly, the dividing elements 18, 20 can be removably coupled to the base 12.

Claim 49:

As described on page 11, lines 28-29, the dividing elements 18, 20 can be permanently coupled to the coupling element 88 shown in FIGS. 10A and 10B. See also, page 7, lines 19-26, and reference on page 11, lines 11-12 to the FIG. 1 embodiment). Also, the mounting member 90 can be permanently coupled to the base 12 shown in FIGS. 10A and 10B (see page 7, lines 1-2, and reference on page 11, lines 11-12 to the FIG. 1 embodiment). Accordingly, the dividing elements 18, 20 can be permanently coupled to the base 12.

Claim 51:

With reference to page 11, lines 14-16 and FIGS. 10A and 10B, the dividing elements 18, 20 can each have a first end 42 substantially centered above the base 12, a second end 44 coupled to the base 12, and a joining portion 48 joining the first end 42 to the second end 44. As discussed above, the term “coupled” must be construed to have its ordinary meaning, and should not be limited to a mechanical or physical coupling. *Johnson Worldwide Associates, Inc. v. Zebco Corp.*, 175 F.3d 985, 992, 50 USPQ2d 1607, 1612 (Fed. Cir. 1999). Barring a specific narrowing definition in the present application (and the Applicant respectfully submits that no such narrowing definition exists), the term “coupled” encompasses both direct and indirect couplings.

Claim 52:

As shown in FIGS. 10A and 10B, the joining portion 48 of each dividing element comprises a substantially horizontal section (the horizontal section of each dividing element 18, 20 farthest away from the center of the assembly in FIGS. 10A and 10B) and an arcuate section (the arcuate section of each dividing element 18, 20 at the ends of the assembly in FIGS. 10A and 10B). As also shown in FIGS. 10A and 10B, the substantially horizontal section extends vertically above and horizontally beyond an end of the base 12, and the arcuate section joins the substantially horizontal section to the second end 44.

Claim 54:

As shown in FIGS. 10A and 10B, the dividing elements 18, 20 form a substantially symmetrical structure on opposite sides of the base 12.

Claim 55:

FIGS. 10A and 10B both illustrate a free stall divider assembly for animals. On page 5 of the present application as originally filed, a description of a “free stall divider” is provided with reference to FIGS. 1 and 2. On page 11 of the present application as originally filed, FIGS. 10A and 10B are described as having the same primary parts as the free stall divider of FIG. 1, but employing different manners of coupling the dividing elements 18, 20 (see FIG. 1) to the mounting member 90 (see FIGS. 10A and 10B). Accordingly, the structures illustrated in FIGS. 10A and 10B, like the structure illustrated in FIG. 1, are free stall divider assemblies for animals.

FIGS. 10A and 10B also each illustrate a substantially horizontally extending base 12 having two opposite sides defining two facing stall spaces for two facing resting animals. See also, page 11, lines 19-21. Further description of the base 12 and the orientation of cows with respect to the claimed structure is found on page 5, lines 23-27.

FIGS. 10A and 10B also each illustrate a leg 90 coupled to the base 12, and a divider 18, 20 coupled to the leg 90 and extending into opposite sides of the base 12. With reference also to FIG. 2 (and to page 11, lines 14-16), the divider 18, 20 extends alongside two facing stall spaces.

Claim 56:

With reference to FIGS. 10A and 10B, the divider 18, 20 comprises two dividing elements 18 and 20 coupled together and to the leg 90 and extending to opposite sides of the base 12.

Claim 57:

The leg 90 can be removably coupled to the base 12 (see page 7, lines 1-2, and reference on page 11, lines 11-12 to the FIG. 1 embodiment).

Claim 58:

The leg 90 can be permanently coupled to the base 12 (see page 7, lines 1-2, and reference on page 11, lines 11-12 to the FIG. 1 embodiment).

Claim 59:

The leg 90 can be welded to the base 12 (see page 7, lines 1-2, and reference on page 11, lines 11-12 to the FIG. 1 embodiment).

Claim 60:

With reference to page 11, lines 14-16 and FIGS. 10A and 10B, the dividing elements 18, 20 can each have a first end 42 substantially centered above the base 12, a second end 44 coupled to the leg 90, and a joining portion 48 joining the first end 42 to the second end 44.

Claim 61:

As shown in FIGS. 10A and 10B, the joining portion 48 of each dividing element comprises an arcuate section (the arcuate section of each dividing element 18, 20 at the ends of the assembly in FIGS. 10A and 10B) between the first and second ends 42, 44.

Claim 62:

The leg 90 can be formed integrally with the base 12 (see page 7, line 1, and reference on page 11, lines 11-12 to the FIG. 1 embodiment).

Claim 63:

As shown in FIGS. 10A and 10B, the divider 18, 20 is substantially symmetrical on opposite sides of the base 12.

Claim 76:

FIGS. 10A and 10B both illustrate a structure that can be employed in a method to divide an open area into separate free stalls for animals. On page 5 of the present application as originally filed, a description of a “free stall divider” is provided with reference to FIGS. 1 and 2. On page 11 of the present application as originally filed, FIGS. 10A and 10B are described as having the same primary parts as the free stall divider of FIG. 1, but employing different manners of coupling the dividing elements 18, 20 (see FIG. 1) to the mounting member 90 (see FIGS. 10A and 10B). Accordingly, the structures illustrated in FIGS. 10A and 10B, like the structure illustrated in FIG. 1, are free stall dividers that can be employed in a method to divide an open area into separate free stalls for animals.

FIGS. 10A and 10B also each illustrate a base 12. See also, page 11, lines 19-21. Further description of the base 12 and the orientation of cows with respect to the claimed structure is found on page 5, lines 23-27.

FIGS. 10A and 10B also each illustrate two dividing elements 18, 20 positioned to extend away from one another, away from the head space, and along a stall space on either side of the base 12.

With continued reference to FIGS. 10A and 10B, each of the dividing elements 18, 20 are coupled to the base 12 by a mounting portion 86 and are also coupled to one another. It should be noted that the term “coupled” must be construed to have its ordinary meaning, and should not be limited to a mechanical or physical coupling. *Johnson Worldwide Associates, Inc. v. Zebco Corp.*, 175 F.3d 985, 992, 50 USPQ2d 1607, 1612 (Fed. Cir. 1999). Barring a specific narrowing definition in the present application (and the Applicant respectfully submits that no such narrowing definition exists), the term “coupled” encompasses both direct and indirect couplings.

Claim 77:

As shown in FIGS. 10A and 10B, a leg 90 is coupled to the base 12, and the mounting portions 86 of the dividing elements 18, 20 are coupled to the leg 90.

Claim 78:

With reference again to FIGS. 10A and 10B, a continuous loop is formed by coupling the dividing elements 18, 20 to one another.

Claim 79:

Also with reference to FIGS. 10A and 10B, the dividing elements 18, 20 are positioned to be symmetrical with respect to the base 12.

Claim 80:

FIGS. 10A and 10B both illustrate a structure that can be employed in a method to divide an open area into separate free stalls for animals. On page 5 of the present application as originally filed, a description of a “free stall divider” is provided with reference to FIGS. 1 and 2. On page 11 of the present application as originally filed, FIGS. 10A and 10B are described as having the same primary parts as the free stall divider of FIG. 1, but employing different manners of coupling the dividing elements 18, 20 (see FIG. 1) to the mounting member 90 (see FIGS. 10A and 10B). Accordingly, the structures illustrated in FIGS. 10A and 10B, like the structure illustrated in FIG. 1, are free stall dividers that can be employed in a method to divide an open area into separate free stalls for animals.

FIGS. 10A and 10B also each illustrate a substantially horizontally extending base 12. In conjunction with the reference to the FIG. 1 embodiment description on page 11, lines 19-21, the base 12 is substantially aligned with a head space for the heads of two facing resting animals in the two stall spaces (see, for example, page 5, lines 23-27).

FIGS. 10A and 10B also each illustrate two dividing elements 18, 20 positioned to extend away from the base 12 and alongside the two stall spaces.

With continued reference to FIGS. 10A and 10B, the dividing elements 18, 20 are each coupled to the base 12 and are also coupled together. It should be noted that the term “coupled” must be construed to have its ordinary meaning, and should not be limited to a mechanical or physical coupling. *Johnson Worldwide Associates, Inc. v. Zebco Corp.*, 175 F.3d 985, 992, 50 USPQ2d 1607, 1612 (Fed. Cir. 1999). Barring a specific narrowing definition in the present application (and the Applicant respectfully submits that no such narrowing definition exists), the term “coupled” encompasses both direct and indirect couplings.

Claim 81:

As shown in FIGS. 10A and 10B, a leg 90 is coupled to the base 12, and the dividing elements 18, 20 are coupled to the leg 90.

Claim 82:

With reference again to FIGS. 10A and 10B, a continuous loop is formed by coupling the dividing elements 18, 20 together.

Claim 83:

Also with reference to FIGS. 10A and 10B, the dividing elements 18, 20 are positioned to be symmetrical with respect to the base 12.

Claim 84:

FIGS. 10A and 10B both illustrate a structure that can be employed in a method to divide an open area into separate free stalls for animals. On page 5 of the present application as originally filed, a description of a “free stall divider” is provided with reference to FIGS. 1 and 2. On page 11 of the present application as originally filed, FIGS. 10A and 10B are described as having the same primary parts as the free stall divider of FIG. 1, but employing different manners of coupling the dividing elements 18, 20 (see FIG. 1) to the mounting member 90 (see FIGS. 10A and 10B). Accordingly, the structures illustrated in FIGS. 10A and 10B, like the structure illustrated in FIG. 1, are free stall dividers that can be employed in a method to divide an open area into separate free stalls for animals.

FIGS. 10A and 10B also each illustrate a substantially horizontally extending base 12. In conjunction with the reference to the FIG. 1 embodiment description on page 11, lines 19-21, the base 12 is substantially aligned with a headspace for the heads of two facing resting animals (see, for example, page 5, lines 23-27).

FIGS. 10A and 10B also each illustrate a divider 18, 20 positioned to extend from opposite sides of the base 12. With reference also to FIG. 2 (and to page 11, lines 14-16), the divider 18 extends alongside two facing stall spaces.

The divider 18, 20 illustrated in FIGS. 10A and 10B is also coupled to the base 12 by a leg 90 extending to the base 12.

Claim 85:

With reference to FIGS. 10A and 10B, the divider 18, 20 is defined by two dividing elements 18 and 20.

Claim 86:

As shown in each of FIGS. 10A and 10B, the dividing elements 18, 20 of the divider are coupled together.

Claim 87:

Also with reference to each of FIGS. 10A and 10B, the divider 18, 20 is positioned symmetrically with respect to the base 12.

In the discussion above regarding the scope of elected Species III, reference is made to embodiments of the present invention described in the originally-filed specification and illustrated in the originally-filed drawings. It should be noted that these references only provide exemplary embodiments of elements, features, or limitations called for in the claims, and do not indicate or imply that the claimed elements, features, or limitations are limited to such exemplary embodiments. The elements, features, and limitations claimed in claims 39-41, 43-44, 46-49, 51-52, 54-63, and 76-87 (and in the other claims of the present application) must be given their broadest interpretation under the doctrine of equivalents.

The Applicant therefore confirms the election, without traverse, of Species III for further prosecution on the merits. As described above, claims 39-41, 43-44, 46-49, 51-52, 54-63, and 76-87 are readable upon Species III identified by the Examiner. Also, and as discussed with the Examiner in the February 18, 2004 Examiner's Interview, the Applicant notes that many of these claims also cover other Species identified by the Examiner.



App. No. 09/858,187
3379-9001-02
Amendment Dated March 15, 2004

The Applicant kindly requests that the Examiner telephone the attorneys of record in the event a telephone discussion would be helpful in advancing the prosecution of the present application.

Respectfully submitted,

Christopher B. Austin
Reg. No. 41,592

Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4108
(414) 271-6560

X:\clientb\065379\9001\A0764962.1

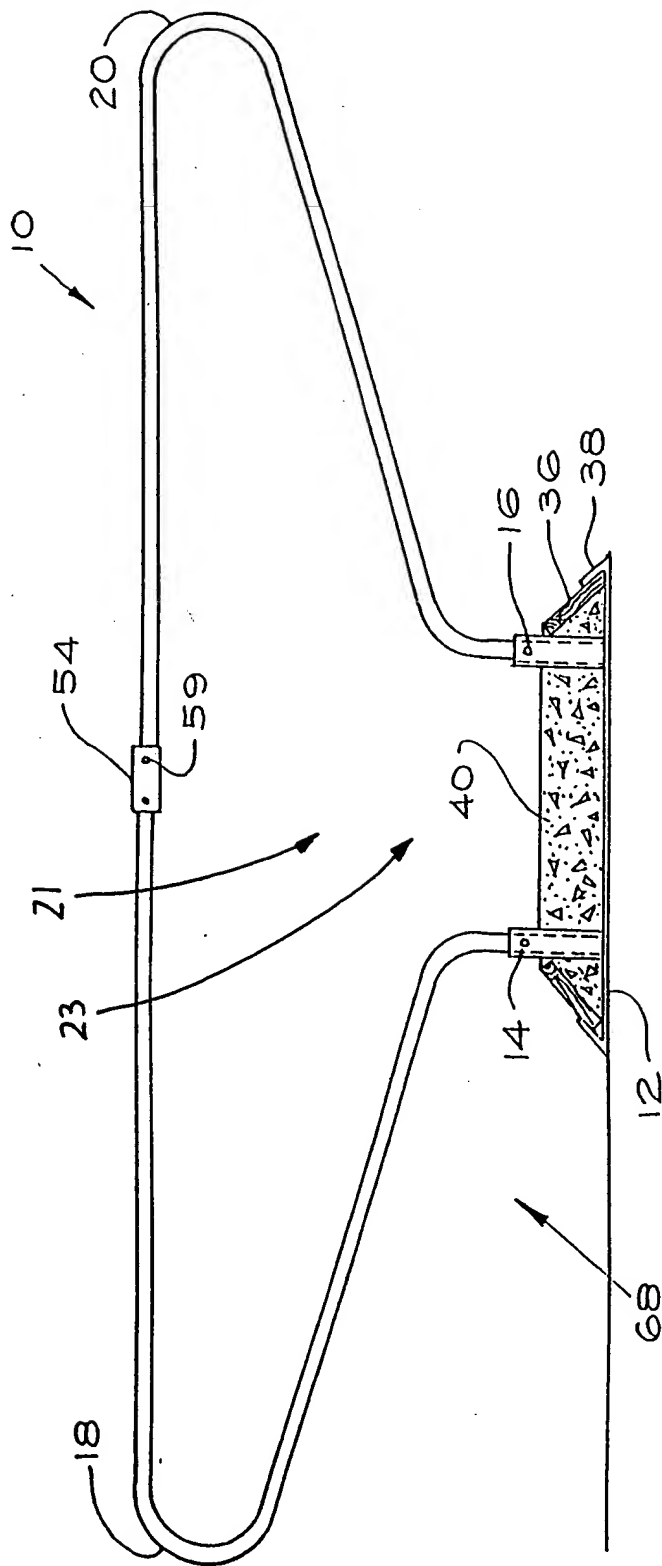


Fig. 1

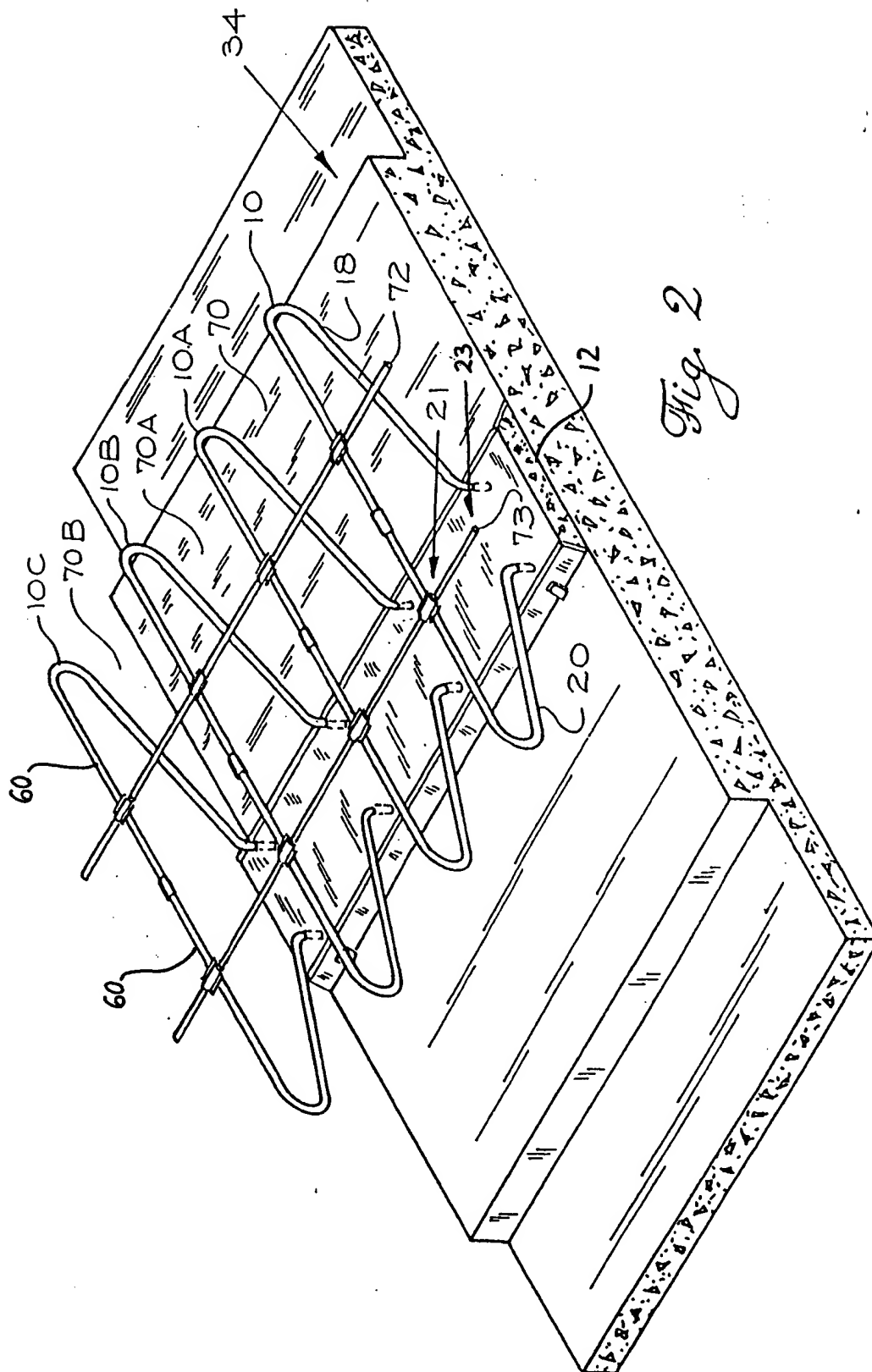
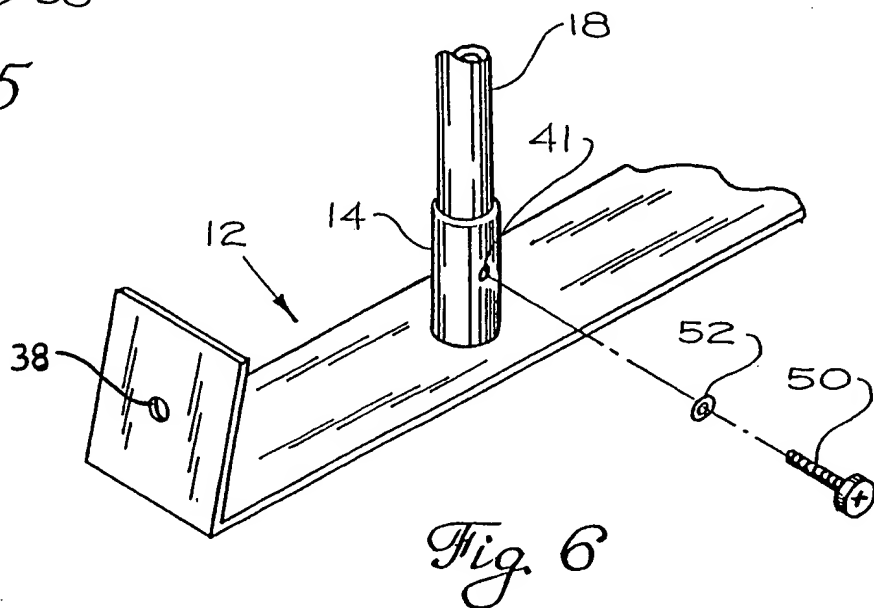
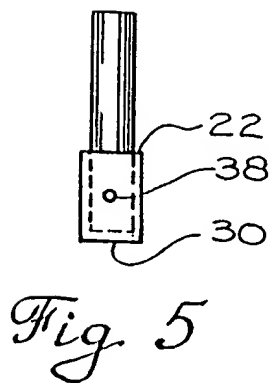
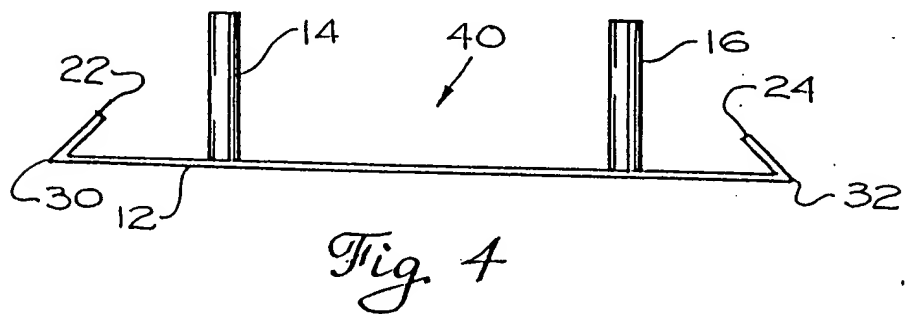
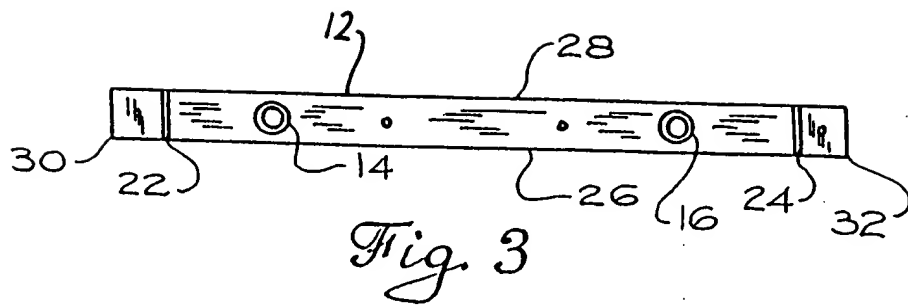


Fig. 2



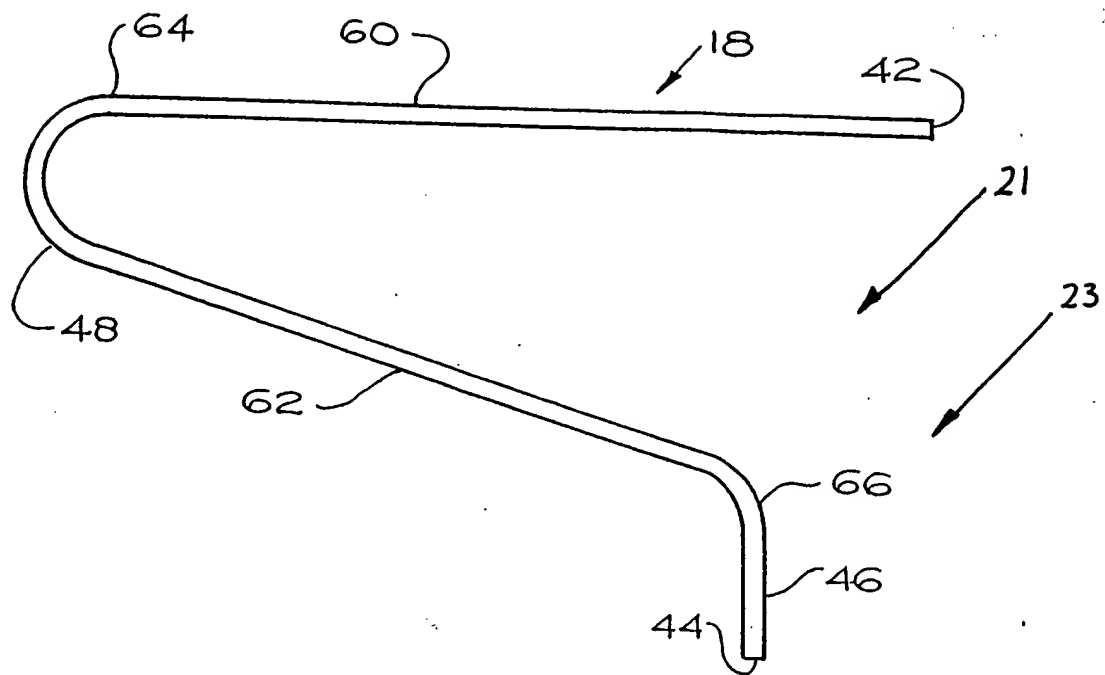


Fig. 7

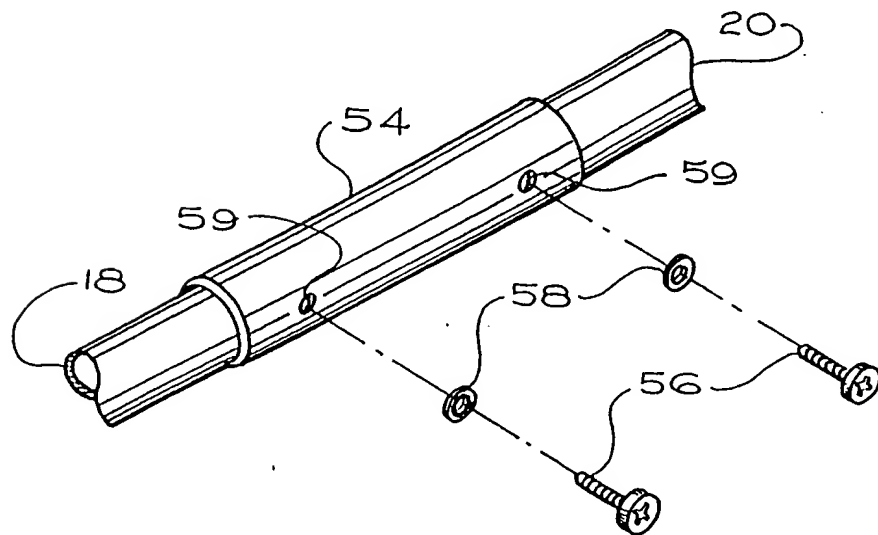


Fig. 8

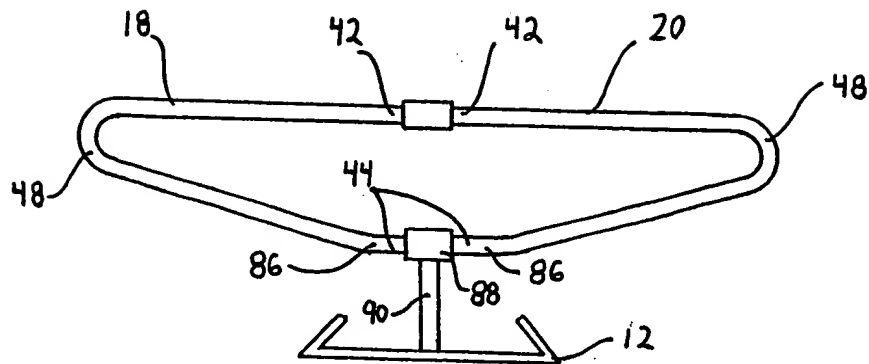


Fig. 10 A

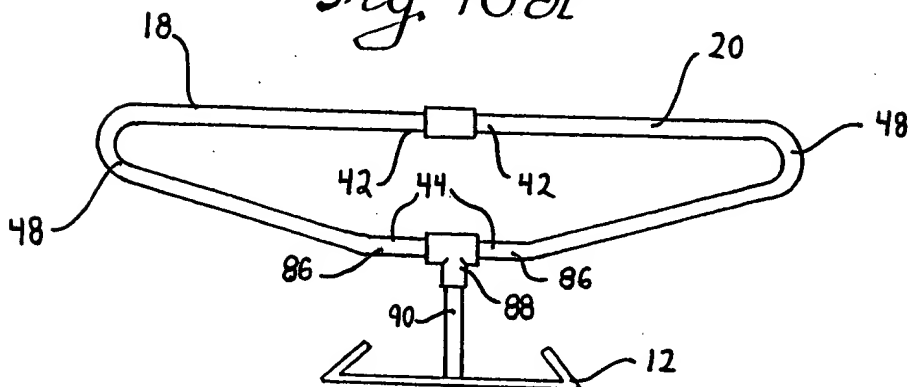


Fig. 10 B

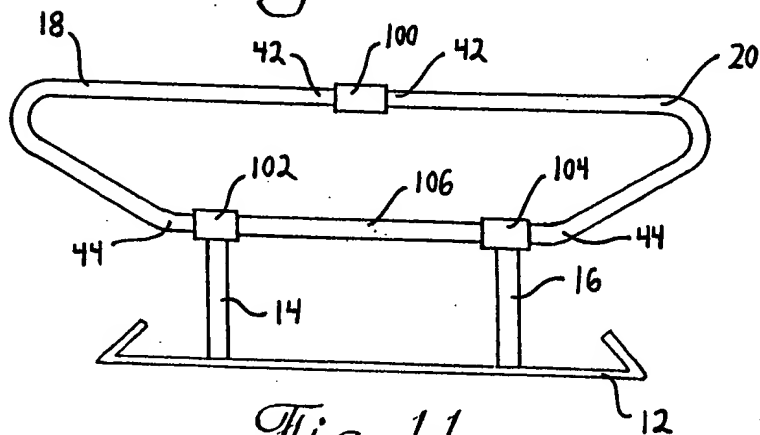


Fig. 11

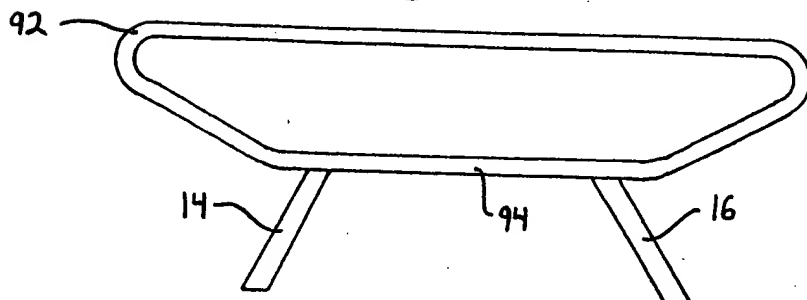


Fig. 12

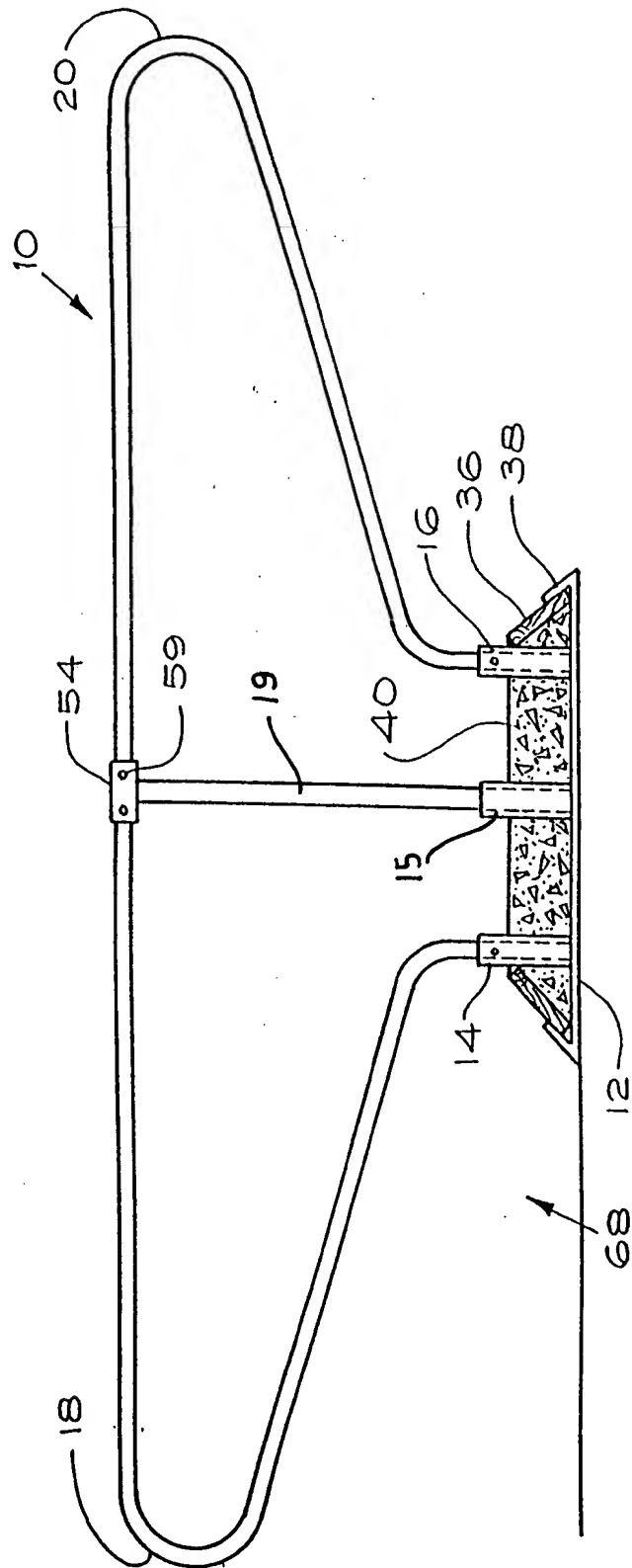
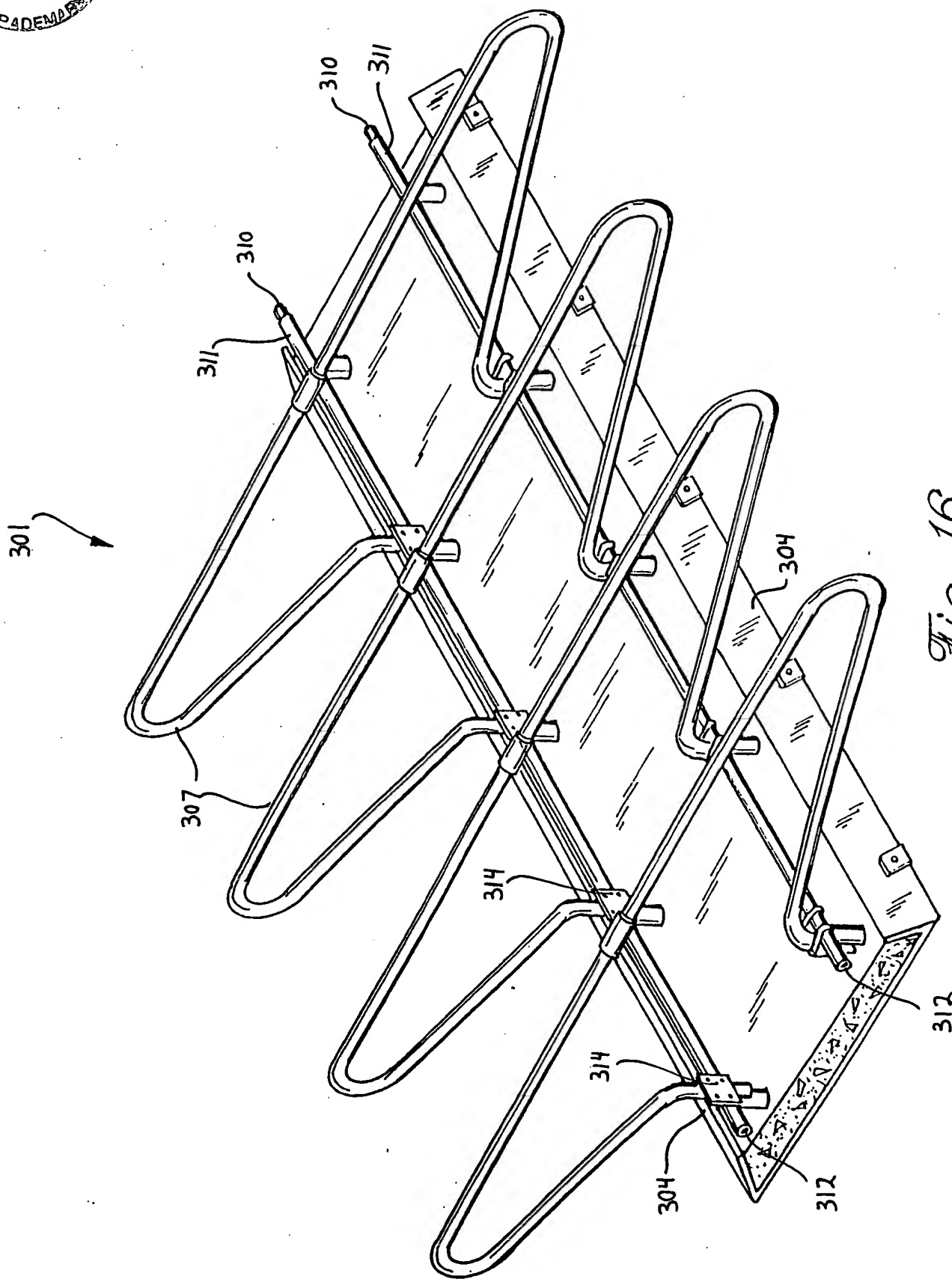


Fig. 13



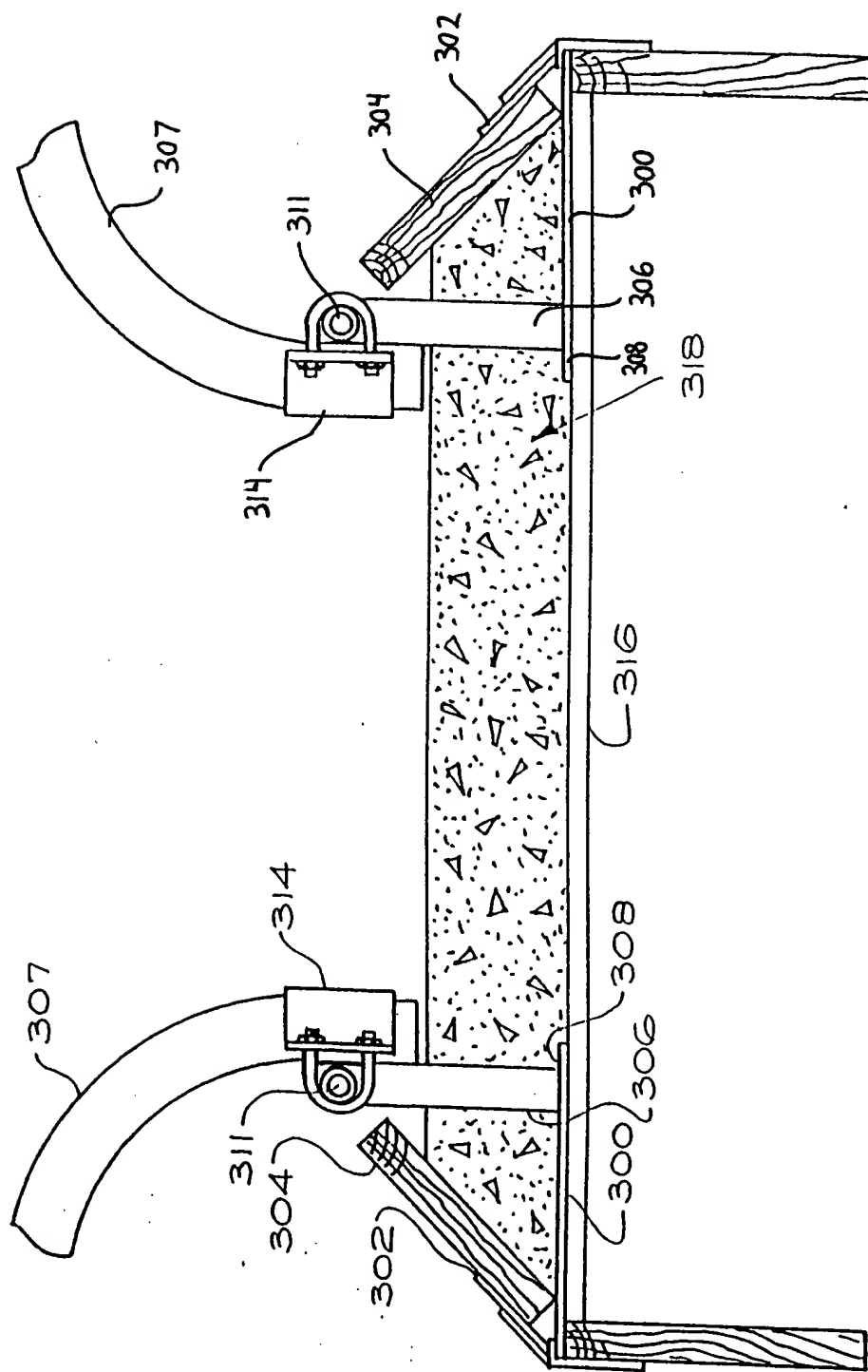


Fig. 17

O.I.P.E. JC116
MAR 18 2004
PATENT & TRADEMARK OFFICE

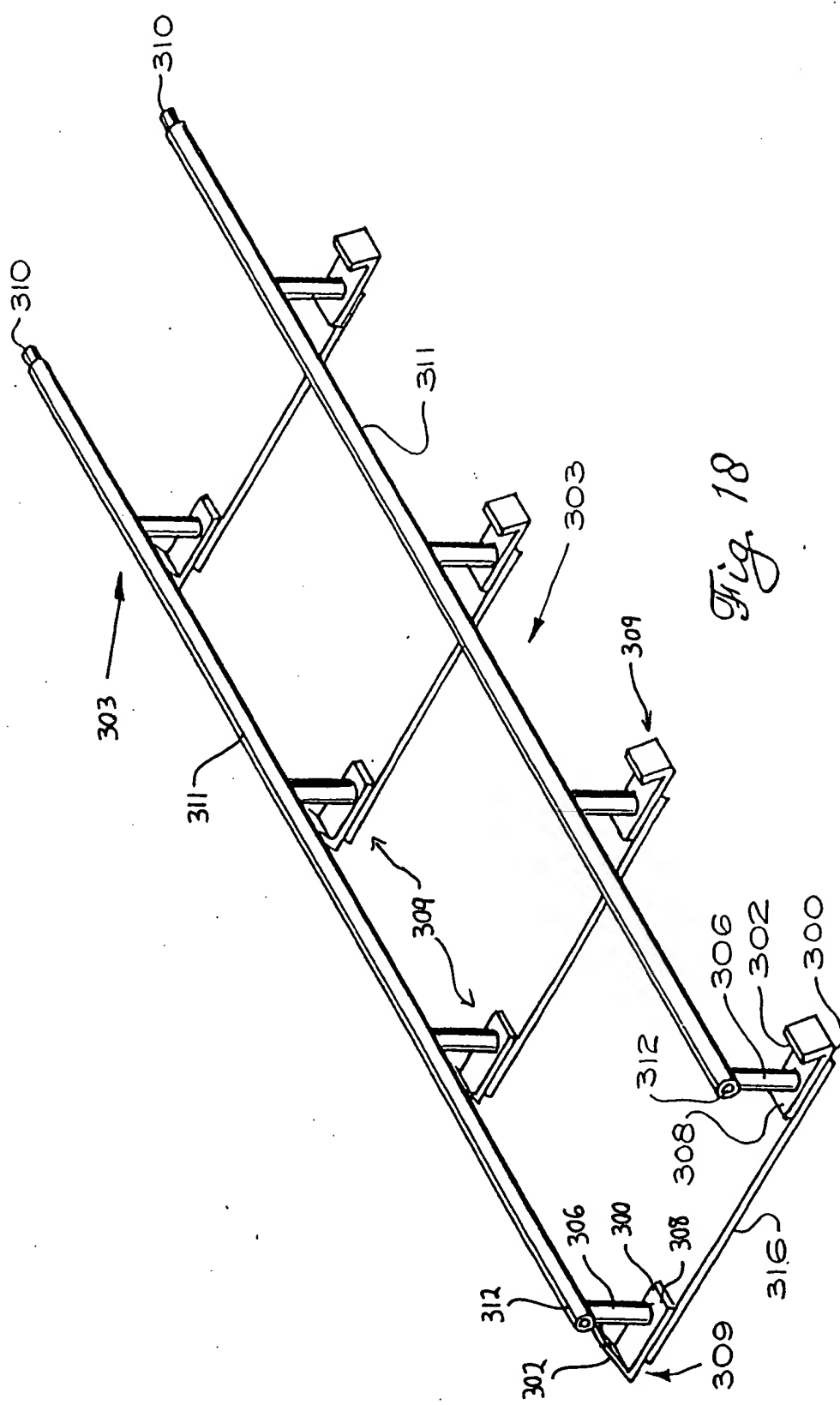


Fig. 18